



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2007 AUG 27 A 11:13

**SENSITIVE**

**AUG 27 2007**

Marc E. Elias, Esq.  
Perkins Coie LLP  
607 14th Street, NW  
Washington, DC 20005

RE: MUR 5785  
Pederson 2006 and Jeff Marella,  
in his official capacity as treasurer

Dear Mr. Elias:

Based on a complaint filed with the Federal Election Commission (the "Commission") on August 2, 2006 and information supplied by your clients, Pederson 2006 and Jeff Marella, in his official capacity as treasurer (the "Committee"), the Commission, on March 6, 2007, found that there was reason to believe the Committee violated 2 U.S.C. §§ 434(a)(6)(B) (iii) and (iv) and 11 C.F.R. §§ 400.21(a) and 400.22(a).

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations of 2 U.S.C. §§ 434(a)(6)(B) (iii) and (iv) and 11 C.F.R. §§ 400.21(a) and 400.22(a) have occurred.

The Commission may or may not approve the General Counsel's recommendations. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible. The General Counsel's brief and any brief that you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

You may also request an oral hearing before the Commission. See Commission's "Policy Statement Establishing a Pilot Program for Probable Cause Hearings," 72 Fed. Reg. 7551 (Feb. 16, 2007). Hearings are voluntary and no adverse inference will be drawn by the Commission based on a respondent's request or waiver of such a hearing. Any request for a hearing must be

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Letter to Marc E. Elias, Esq.  
MUR 5785  
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submitted along with your reply brief and must state with specificity why the hearing is being requested and what issues the respondent expects to address. The Commission will notify you within 30 days of your request for a hearing as to whether or not the request has been granted.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1598.

Sincerely,



Thomasenia P. Duncan  
General Counsel

Enclosure  
Brief

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )

4 ) **MUR 5785**

5 Pederson 2006 and )

6 Jeff Marella, in his official capacity )

7 as treasurer<sup>1</sup> )

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9  
10 **GENERAL COUNSEL'S BRIEF**

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12 **I. INTRODUCTION**

13 On March 6, 2007, the Federal Election Commission ("Commission") found reason to  
14 believe that Pederson 2006, the principal campaign committee of James E. Pederson, and its  
15 treasurer, in his official capacity (the "Committee"), violated 2 U.S.C. § 434(a)(6)(B)(iii) and  
16 11 C.F.R. § 400.21(a) by failing to timely file an initial notification of Pederson's personal  
17 expenditures of \$2,000,000 to his campaign that exceeded the threshold reporting requirement,  
18 and 2 U.S.C. § 434(a)(6)(B)(iv) and 11 C.F.R. § 400.22(a) by failing to timely file a notification  
19 of additional personal expenditures by Pederson to his campaign of \$275,000.<sup>2</sup> Based on the  
20 following factual and legal analysis, this Office is prepared to recommend that the Commission  
21 find probable cause to believe that Pederson 2006 and Jeff Marella, in his official capacity as  
22 treasurer, violated 2 U.S.C. §§ 434(a)(6)(B)(iii) and (iv) and 11 C.F.R. §§ 400.21(a) and  
23 400.22(a).

24 **II. FACTUAL AND LEGAL ANALYSIS**

25 On March 31, 2006, James E. Pederson made a \$2,000,000 contribution to the  
26 Committee, triggering and exceeding the \$648,720 reporting threshold, which required the filing

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<sup>1</sup> According to the Committee's amended Statement of Organization dated July 13, 2007, Carter Olson has been replaced by Jeff Marella as treasurer of the Committee.

<sup>2</sup> On March 6, 2007, the Commission dismissed allegations concerning late filings with the Secretary of the Senate for Pederson's campaign expenditures made on May 8, 2006, June 14, 2006, and July 20, 2006.

1 of a 24 Hour Notice of Expenditure from Candidate's Personal Funds ("FEC Form 10"). On  
2 June 30, 2006, Pederson made another contribution to the Committee in the amount of \$275,000.  
3 Neither Pederson nor the Committee timely filed the initial or additional FEC Form 10 disclosing  
4 these expenditures from personal funds.

5 A Senate candidate or his or her principal campaign committee must notify the Secretary  
6 of the Senate, the Commission, and each opposing candidate when the candidate makes an  
7 expenditure from personal funds exceeding two times the threshold amount.<sup>3</sup> 2 U.S.C.  
8 § 434(a)(6)(B)(iii); 11 C.F.R. § 400.21(a). This notification must be received within 24 hours of  
9 the time such expenditure is made. *Id.* For additional expenditures aggregating more than  
10 \$10,000, the Secretary of the Senate, the Commission and each opposing candidate must be  
11 notified by an FEC Form 10 filing within 24 hours of the time such expenditures are made.  
12 2 U.S.C. § 434(a)(6)(B)(iv); 11 C.F.R. § 400.22(a).

13 Pederson's \$2,000,000 contribution to the Committee on March 31, 2006 caused his  
14 personal expenditures for the primary election to exceed \$648,720. By exceeding this amount,  
15 the Committee was required to file an FEC Form 10 with the Commission within 24 hours of  
16 making the contribution, or by April 1, 2006. The Committee did not file the initial FEC Form  
17 10 until April 7, 2006, or six days late. The Committee also failed to file an additional FEC  
18 Form 10 regarding Pederson's \$275,000 contribution to the Committee on June 30, 2006. The  
19 Committee filed the FEC Form 10 for this personal expenditure on July 4, 2006, three days late.<sup>4</sup>  
20 Therefore, this Office is prepared to recommend that the Commission find probable cause to

<sup>3</sup> The threshold amount for United States Senate candidates is the sum of \$150,000 plus an amount equal to the voting age population ("VAP") of the state multiplied by 4 cents. See 11 C.F.R. § 400.9. In the case of Arizona in 2006, the threshold amount was \$324,360 (\$150,000 + (4,359,000 VAP x .04, or \$174,360). Thus, an amount that is two times the threshold amount is \$648,720 (\$324,360 x 2).

<sup>4</sup> Because the late Form 10s pertained to the primary election, in which Pederson was unopposed, notification of opposing candidates is not an issue in this matter.

believe that Pederson 2006 and Jeff Marella, in his official capacity as treasurer, violated 2 U.S.C. §§ 434(a)(6)(B)(iii) and (iv) and 11 C.F.R. §§ 400.21(a) and 400.22(a).

**III. GENERAL COUNSEL'S RECOMMENDATIONS**

1. Find probable cause to believe that Pederson 2006 and Jeff Marella, in his official capacity as treasurer, violated 2 U.S.C. § 434(a)(6)(B)(iii) and 11 C.F.R. § 400.21(a).
2. Find probable cause to believe that Pederson 2006 and Jeff Marella, in his official capacity as treasurer, violated 2 U.S.C. § 434(a)(6)(B)(iv) and 11 C.F.R. § 400.22(a).

8/24/07  
Date

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